

---

In Re:

Finger Lakes Storage, LLC

Freedom of Information Act (FOIA)

---

Determination by the  
Regional Counsel  
Pursuant to 40 C.F.R. §2.205

Date: **DEC 18 2012**

### INTRODUCTION

On April 3, 2012, the U.S. Environmental Protection Agency ("EPA") received a request under the Freedom of Information Act ("FOIA") from Joseph M. Campbell of a nongovernmental organization known as Gas Free Seneca. Finger Lakes LPG Storage, LLC ("Finger Lakes") submitted an application for an EPA Underground Injection Control ("UIC") program permit for the company's Watkins Glen, N.Y. facility. The information responsive to this request was submitted by Finger Lakes on January 20, 2012 in support of Finger Lakes' application for a UIC Class II permit and in response to EPA's December 6, 2011 permit application deficiency letter.

The request was initially denied on May 10, 2012, pending contact with the submitter of the responsive information to permit that entity to substantiate its claims to confidential treatment of information submitted by it to EPA that was responsive to the aforementioned FOIA request. On May 10, 2012, the Agency asked Finger Lakes to provide those substantiations.

UIC permits are issued pursuant to the Underground Injection Control ("UIC") Program, promulgated under Part C of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. §300f et seq. Part C of the SDWA was enacted for the principal purpose of preventing underground injection that may endanger underground sources of drinking water. EPA's UIC regulations, codified at 40 C.F.R. Part 144, 146, 147 and 148 (Underground Injection Control Program), establish requirements for six classes of wells. Class II wells inject fluids brought to the surface in connection with natural gas storage or oil and natural gas production, or inject fluids for enhanced recovery of oil and natural gas. Class III wells inject fluids for the purpose of solution mining. The Watkins Glen facility has had a Class III permit since the 1980s. The Class II permit application is awaiting Agency action. The information at issue in this Determination was submitted in connection with the Class II permit application and the Class III permit.

### DISCUSSION

Exemption 4 of the FOIA, 5 U.S.C. §552(b)(4), protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. Exemption 4 is intended to protect the interests of both the government (in obtaining voluntary submission of useful and reliable commercial or financial information) and, as more pertinent here, the submitters who may be required to submit such commercial or financial information as a condition of participation in Agency activities such as bidding on contracts or seeking a permit and who may suffer from the competitive disadvantages that could result from disclosure.

The term "commercial" includes anything pertaining or relating to or dealing with commerce. Records are commercial so long as the submitter has a commercial interest in them. *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280 (D.C. Cir. 1983). The term "person" refers to a wide range of

entities, including corporations, state governments, and agencies of foreign governments. See, e.g., *Comstock Int'l, Inc. v. Export-Import Bank*, 464 F.Supp. 804 (D.D.C. 1979) (corporation).

Commercial or financial matter is "confidential" for purposes of the exemption if disclosure of the information is likely to have either of the following effects: (1) of impairing the government's ability to obtain necessary information in the future; or (2) in the case of a mandatory submission, of causing substantial harm to the competitive position of the person from whom the information was obtained. *Inner City Press/Community on the Move v. Bd. of Governors of Fed. Res. Sys.*, 463 F.3d 239, 244 (2d Cir. 2006) citing *Cont'l Stock Transfer & Trust Co. v. SEC*, 566 F.2d 373, 375 (2d. Cir. 1977) (adopting the *National Parks* test; see, *National Parks and Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974)). An agency withholding information pursuant to Exemption 4 bears the burden of demonstrating the legitimacy of such nondisclosure.

Number "(1)" above is not pertinent here since the Safe Drinking Water Act and implementing regulations at 40 C.F.R. Part 144 give the Agency broad authority to require from owners and operators of injection wells the submission of necessary information, such as that needed in support of a permit application or to demonstrate compliance with a permit or applicable regulatory requirements. Consequently, the Agency concludes that disclosure of the business information that is responsive to the request submitted to EPA by U.S. Salt and Finger Lakes will not impair its ability to obtain necessary information in the future. Further, if a submission is deemed mandatory, there is a presumption against impairment of a government function. *Inner City Press* at 246-247.<sup>1</sup>

However, Number "(2)" above is pertinent to our determination. Under "(2)," actual competitive harm need not be demonstrated; what is required is the existence of actual competition. (The existence of actual competition is not at issue here.) If commercial or financial information is likely to cause substantial competitive harm to the company that supplied it, then such information is exempt from mandatory disclosure by virtue of Exemption 4 of the FOIA. *McDonnell Douglas Corp. v. NASA*, 180 F.3d 303, 306 (D.C. Cir. 1999). However, the Agency must point to specific evidence that will show that competitive harm to the submitter's interests would be imminent if disclosure were to be made. Such evidence must show that competitive harm will result from the affirmative use of the information by competitors of the submitter. *Bloomberg, LLP v. Bd. of Governors of Federal Reserve System*, 649 F.Supp. 2d 262, 279 (S.D.N.Y. 2009)(citing *Iglesias v. CIA*, 525 F.Supp. 547, 559 (D.D.C. 1981)).

The amount of information responsive to the aforementioned FOIA request is quite voluminous. It consists largely of geologic record material submitted by Finger Lakes in the form of data, well and cavern diagrams and maps, "Reservoir Suitability Studies," communication between the submitter and the New York State Department of Environmental Conservation ("DEC") and results of studies, including historical background information, commissioned by the latter along with background information. This record material spans several decades.

In accordance with 40 C.F.R. §2.205(a), the Office of Regional Counsel has completed a thorough review of the submitter's substantiation of its claim for continued confidential treatment of the aforementioned record material. Because of the highly technical and specialized nature of the record material, the Counsel's decisionmaking in this matter was of necessity extensively informed by the

---

<sup>1</sup> Although counsel for the submitter asserts that the information at issue was provided voluntarily, its submission, as indicated above, was required by the SDWA authorities cited above. Further, the Department of Justice has concluded that a submitter's voluntary participation in an activity, such as seeking a permit, does not govern whether the submission is voluntary. Rather, the inquiry is whether the information is required of those parties who seek to participate. See *DOJ FOIA Update*, Vol. XIV, No. 2 at 5. Consequently, the submission here is a mandatory one.

Regional Geologist in the Ground Water Compliance Section, located in the enforcement division of the Regional Office.

On June 12, 2012, Finger Lakes submitted a substantiation of its claim to confidential treatment of its material in the Agency's possession. In that substantiation, Finger Lakes asserted that none of the materials at issue were publicly available. In a phone conversation that both Agency counsel and the Geologist had with the submitter's attorney on August 27, 2012, the Agency pointed out that it had discovered that a good deal of the record material at issue had been posted on the internet not only by the DEC upon having made its own confidentiality determination under the New York Freedom of Information Law, but also by Finger Lakes on its own website, thus rendering that substantiation inaccurate insofar as the company's response to that particular inquiry, i.e., prior public disclosure, was concerned. Counsel for the submitter did not controvert the Agency's assertion.

As a result of the aforementioned discussion between the Agency and counsel for the submitter, the latter agreed to narrow its confidentiality claim to only those documents, or segments of documents, that had not been previously disclosed to the public either by itself and/or by the DEC. Consistent with the Agency's regulation at 40 C.F.R. §2.203(b) ("[a]llegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business....."), the Agency required the submitter to match what had been posted on the internet against the universe of material it had previously claimed as confidential and to then re-submit to the Agency the (clearly identified) material it believed could still constitute potentially confidential business information. The revised submission still included some responsive material that had been made public previously.

As regards commercial information that has been publicly disclosed, it has been held that such may not be protected under Exemption 4 if identical information is otherwise in the public domain. *Inner City Press* at 244. The rationale behind the public domain doctrine is that "if identical information is truly public, then enforcement of an exemption cannot fulfill its purposes." *Niagara Mohawk Power Company v. U.S. DOE*, 169 F.3d 16, 19 (D.C. Cir. 1999). The Supreme Court has limited the public domain exception to information that is "freely available." *Dep't of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 790 (1989). Consequently, the Agency will not withhold from the requester any of Finger Lakes' material that has been previously posted on the internet.

The Agency's determination of the confidential status of commercial information must necessarily entail a balancing of the strong public interest in favor of disclosure against the right of private businesses to protect sensitive information. *GC Micro Corporation v. Defense Logistics Agency*, 33 F.3d 1109, 115 (9<sup>th</sup> Cir. 1994) (citing *National Parks*, 498 F.2d at 768-769). Also, as mentioned above, the competitive harm that matters is a competitor's affirmative use of proprietary information that could reap a commercial windfall for the competitor, rather than the harm caused by a customer or other third party's negative reaction to disclosure. *In Defense of Animals v. U.S. Department of Agriculture*, 656 F.Supp. 2d 68, 80 (D.D.C. 2009).

Applying the legal authority cited above, the Agency concludes that a significant segment of the submitter's responsive materials in the Agency's possession is entitled to protection as confidential proprietary information. The attached chart provides the Agency's specific confidentiality findings as to all of Fingers Lakes' responsive information that was placed in issue by the April 3 FOIA request.<sup>2</sup>

---

<sup>2</sup> The Agency notes that of the requested and responsive information, approximately 14 lines from a May 14, 2010 Reservoir Suitability Report were previously determined to be nonexempt from FOIA disclosure as explained in a Regional Counsel determination of July 6, 2012 that was necessitated by a FOIA request made by another party.

In general, documents consisting of well logs, detailed maps, reports and diagrams of the facility's caverns and wells merit, in the Agency's opinion, protection as such information would likely prove to be useful to a competitor of the submitter as the latter's business model would be made clear. A competitor could, in other words, use this information to determine whether or not to construct a competitive facility in the same geographic area.

On the other hand, some historical information in some of the reports, e.g., "Reservoir Suitability Reports," clearly does not merit protection by applicable legal standards.<sup>3</sup> As regards the latter documents, i.e., the "Reservoir Suitability Reports," the Agency does not find a basis to conclude that disclosure of the tables of contents, general background, references/bibliographies, lists of exhibits, and headings of numbered sections of the reports would inure to the benefit of Finger Lakes' competitors. Adverting to the description of that information provided above, the Agency fails to see how this information, in and of itself, could be proprietary in nature as claimed in the substantiation of June 12, 2012. Further, this particular responsive information does not constitute trade secret information as it describes no commercial or industrial processes that can be said to be the end product of either innovation or substantial effort. See *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983).

The Agency has also considered the time that has elapsed since creation of some of the documents. For example, one dates from 1951. Others were created in excess of 15 years ago. In any event, even if there existed the likelihood of substantial competitive harm to the companies from disclosure of the information at issue, the passage of time can often (and we believe does here) mitigate the potential for harm that might otherwise have resulted from the release of sensitive commercial information. *Cody Ziegler v. U.S. Dep't. of Labor*, No. C2-00-134, 2002 U.S. Dist. LEXIS 19059, at \*6 (S.D. Ohio, September 3, 2002) (citing *Lee v. FDIC*, 923 F.Supp. 451, 455 (S.D.N.Y. 1996)).

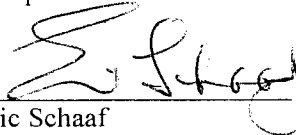
Finally, it is abundantly clear that an agency's determination of the likelihood of substantial competitive harm is not an exact science and is not infallible. For that reason, the federal courts have generally deferred to agency expertise in this area. See *Skybridge Spectrum Foundation v. FCC*, 842 F.Supp. 2d 65, 82 (D.D.C. 2012). Stated somewhat differently, in reviewing an agency's determination as to substantial competitive harm, the D.C. Circuit has recognized that "predictive judgments are not capable of exact proof" and, consequently, a court will "generally defer to the agency's predictive judgments as to the repercussions of disclosure." *United Techs Corp. v. U.S. Dep't of Defense*, 601 F.3d 557, 563 (D.C. Cir. 2010)(citations and internal quotation marks omitted). The Agency submits that its legal findings with respect to the FOIA exemption status of the voluminous amount of responsive information submitted by Finger Lakes are eminently plausible, defensible, and supported by in-house subject matter expertise.

---

<sup>3</sup> Such nonexempt information is typified by text such as the following: "The geologic and geophysical data collected in the area of the US Salt brine field indicates that there has been no recent tectonic activity. There may not have been any tectonic activity in this area since the Appalachian Orogeny approximately 225 million years ago.....The Appalachian Orogeny took place starting in the Late Devonian period and continued into the Permian. This entire region of North America was subjected to compressive forces that were acting in a north-south direction creating a series of parallel folds and thrust faults that strike from east to west across the area. In addition, some high angle strike-slip faults oriented north to south have deformed the Silurian and Devonian Rocks in this immediate area."

## DETERMINATION

Our review leads us to the conclusion that some of the specific information requested via the FOIA for which substantiation of entitlement to confidential treatment was sought and obtained from Finger Lakes cannot be withheld under prevailing Exemption 4 case law. Other materials do warrant such protection as indicated in the attached Excel spreadsheet. At the submitter's request, all materials determined to be entitled to Exemption 4 protection will remain undisclosed for an indefinite period, save for two logs that were run to evaluate the construction of one of Finger Lakes' wells; these are a March 11, 2011 Segmented Bond Log and a March 24, 2011 HR Vertilog. (The title pages of these two documents will not be protected.) These latter two documents are in the possession of the DEC, which intends to release them to the public in March, 2013, at which time they will lose their Exemption 4 protection as they will be freely available to the public. Finally, pursuant to the Agency's regulation at 40 C.F.R. §2.208, the specific information at issue found to be nonexempt will be released in accordance with 40 C.F.R. §2.205(f).



Eric Schaaf  
Regional Counsel

## 02-FOI-00738-12 SUMMARY OF RECORD CONFIDENTIALITY

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
10/9/09	Application for Underground Liquid Petroleum Gas Storage Permit						
		Tab C Pages 1-14 Reservoir Suitability Study.	14	1 - CLAIMED CONFIDENTIAL	Partially releasable.	Redacted copy in package.	
		Tab C Exhibit 2 - Gallery/Site Maps	2	2 - TWO PAGES CLAIMED CONFIDENTIAL	<b>Confidential.</b>	N/A	2 PAGES
		Tab C Exhibit 3 - Stratigraphic Columns Pages 3-5	3	3 - PAGES 3-5 CLAIMED CONFIDENTIAL	Cross section from published paper available on-line. Not confidential. Well 31 stratigraphy - confidential. FLAC3D Model - confidential.	Copy of releasable cross section in package.	2 PAGES
		Tab C Exhibit 5 - North-South Cross-Section Gallery 1	1	4 - 1 PAGE CLAIMED CONFIDENTIAL	Confidential	N/A	1 PAGE
		Tab C Exhibit 6 - Gallery 2 Cross-Section	1	5 - 1 PAGE CLAIMED CONFIDENTIAL	Confidential	N/A	1 PAGE
		Tab C Exhibit 7 - Hydrotest Data, Gallery 1	4	6 - 4 PAGES CLAIMED CONFIDENTIAL	Confidential	N/A	4 PAGES
		Tab C Exhibit 8- Core Descriptions Well 59	41	7 - 41 PAGES CLAIMED CONFIDENTIAL	Partially confidential.	Redacted copy in package.	

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Tab C Exhibit 9 - Rock Mechanics Report, Wells 58 & 59	63	8 - 63 PAGES CLAIMED CONFIDENTIAL	Partially confidential.	Redacted copy in package.	
		Tab C Exhibit 10 - Geomechanical Evaluation Gallery 2	80	9 - 80 PAGES CLAIMED CONFIDENTIAL	Partially confidential.	Redacted copy in package.	
		Tab C Exhibit 15 - Mechanical Integrity Test Procedures	4	10 - 4 PAGES CLAIMED CONFIDENTIAL	Part II.A.2: Pressure confidential. Part B to end available on state website - not confidential.	Redacted copy in package.	
1/11/10	DEC Notice of Incomplete Application		14				
		Other Comments/ Questions	2	11: 14 PAGES INITIALLY CLAIMED BUT LATER RELEASED. All in DSEIS App O Sections 6-7	N/A	Not included since requester only seeking documents not released by the State.	
5/14/10	Revised Reservoir Suitability Report and Response to January 11, 2010 DEC Notice of Incomplete Application						

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Item Number 5c	2	12 - ITEM 5C RESPONSE AND FOOTNOTE 2 CLAIMED CONFIDENTIAL	Partially confidential.	Redacted copy in package.	
		Item Numbers 6, 6a, 6b, 6c, 6e, 6f	8	12 - EACH RESPONSE TO DEC COMMENT CLAIMED CONFIDENTIAL	Releasable except maximum gradients in table in 6e.	Copy in package. For 6e redacted copy in package.	
		Item Number 8	2	12 - ITEM 8 RESPONSE CLAIMED CONFIDENTIAL	Releasable	Copy in package.	
		Other Comments/ Questions 4,5 (Page 4, 4th full paragraph)	1	12 - QUESTION AND RESPONSE 4-5 CLAIMED CONFIDENTIAL	Questions already released. Response releasable.	Copy in package.	
		Other Comments/ Questions 9	1	12 - QUESTION/ RESPONSE 9 CLAIMED CONFIDENTIAL	Question released-in DSEIS App O Part 7. Response general-not confidential.	Copy in package.	
		Other Comments/ Questions 12	1	12 - QUESTION AND RESPONSE 12 CLAIMED CONFIDENTIAL	Question released in DSEIS App. O Part 7. Response: not confidential-that a long term pressure test was run is mentioned in DSEIS.	Copy in package.	
		Exhibits C, D	16	12 - EXHIBITS C-D CLAIMED CONFIDENTIAL	Exhibit C: Many of the sonar dates released in DSEIS App O Part 8. Dates not confidential. Exhibit D: Cover letter partially confidential. All images, plots confidential.	Releasable portion in package.	13 PAGES
		Exhibit F	1	12 - EXHIBIT F CLAIMED CONFIDENTIAL	Pressure test results confidential.	N/A	1 PAGE
5/14/2010	Reservoir Suitability Report						



DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Cover, Table of Contents, Sections 1-2			Not claimed	Copies included for clarity.	
		Sections 3-15		13- SECTIONS 3,4,5,6,6.1,6.2,6.3,6.4,7,7.1,7.2,7.3,8,9,10,11,14,15 CLAIMED CONFIDENTIAL	Section 3 released so not claimed. Other sections partially confidential.	All sections that were not claimed confidential included for clarity though not responsive. Other sections: Redacted copy in package.	
		SECTION 14 except Paragraph 5		"	Releasable	In package	
		SECTION 14 Paragraph 5		"	Releasable	In package	
		Exhibit 2, Maps 1-2	2	14 - MAP 1, MAP 2 CLAIMED CONFIDENTIAL	Not submitted to EPA.	N/A	
		Exhibit 5 - Well 58 Core Log	11	15 - 11 PAGES CLAIMED CONFIDENTIAL	Cover releasable. Remaining pages confidential.	Cover only <b>included in package</b>	10 PAGES
		Exhibit 7: Well 58 2009 Sonar	80	16 - 80 PAGES CLAIMED CONFIDENTIAL	Cover not confidential. Rest of document confidential.	Cover only <b>included in package</b>	79 PAGES
		Exhibit 11 - Hydrotest Data -	4	17 - 4 PAGES CLAIMED CONFIDENTIAL	All pages confidential.	N/A	4 PAGES
		Exhibit 12 - Long term brine test	30	18 - 30 PAGES CLAIMED CONFIDENTIAL	Portions confidential. Calibration info releasable. 3 page table, all pressure recorder charts confidential.	<b>Redacted copy in package.</b>	24 PAGES

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Exhibit 13 - Well 58 MIT	7	19 - 7 PAGES CLAIMED CONFIDENTIAL.	MIT results releasable.	Copy in package.	
		Exhibit 14 Well 52 Sonar Survey of 11/19/2009	49	20 - 49 PAGES CLAIMED CONFIDENTIAL.	All pages confidential.	N/A	49 PAGES
		Exhibit 15 - Camillus Shale Isopach Map	1	21 - 1 PAGE CLAIMED CONFIDENTIAL.	Confidential	N/A	1 PAGE
		Exhibit 16 - Camillus Shale Structure Map	1	22 - 1 PAGE CLAIMED CONFIDENTIAL	Confidential	N/A	1 PAGE
		Exhibit 17 - Cross sections	4	23 - 4 PAGES CLAIMED CONFIDENTIAL	All pages confidential.	N/A	4 PAGES
		Exhibit 18 - Core descriptions Well 59	41	24 - 41 PAGES CLAIMED CONFIDENTIAL - COPY OF DOCUMENT 7 ABOVE	See Document 7.	Redacted copy in package as Document 7.	SEE DOCUMENT 7
		Exhibit 19 - Rock Mechanics Report Wells 58, 59	63	25 - 63 PAGES CLAIMED CONFIDENTIAL. COPY OF DOCUMENT 8 ABOVE.	See Document 8.	Redacted copy in package as Document 8.	SEE DOCUMENT 8
		Exhibit 20 - Finite Elements Analysis	48	26 - 48 PAGES CLAIMED CONFIDENTIAL.	Portions confidential.	Redacted copy in package.	
		Exhibit 21 - Capacity Matrix	1	27 - 1 PAGE CLAIMED CONFIDENTIAL.	In DSEIS App O Part 10. Not confidential.	Already released on Finger Lakes website so N/A.	
		Exhibit 26 - MIT Procedures	4	28 - 4 PAGES CLAIMED CONFIDENTIAL. COPY OF DOCUMENT 10 ABOVE	Copy of procedures included in original permit application. See above Row 27.	Redacted copy in package as Document 10.	

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
9/28/2010	Response to DEC August 12, 2010 Second Notice of Incomplete Application						
		Page 3	1	29 - PAGE 3 TABLE CLAIMED CONFIDENTIAL	Table, volume in footnote 2 confidential.	Redacted copy in package.	
		Page 4	1	29 - PAGE 4 TABLE CLAIMED CONFIDENTIAL	Table confidential	Redacted copy in package.	
		Page 5	1	29 - PAGE 5 TEXT PARAGRAPHS 3, 6 CLAIMED CONFIDENTIAL.	Paragraph 3 Sentence 1: Log itself on-line so not confidential. Rest of paragraph partially confidential. Paragraph 6: Partially confidential.	Redacted copy in package.	
		Page 12	1	29 - PAGE 12 PARAGRAPHS 1-2 CLAIMED CONFIDENTIAL.	Paragraph 1 not confidential. Updated version with actual sonar results in DSEIS App E Part 11 Page 80. Calculations of future cavern size confidential.	Redacted copy in package.	

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Page 14	1	29 - TABLE AT TOP, TEXT PARAGRAPH 3 CLAIMED CONFIDENTIAL.	Table: Camillus information confidential. Logging dates in DSEIS-not confidential. Excellent/Good bond info for wells 33, 44, 52 not confidential. 33, 44 interpretations of 2010 logs on 33, 44 on ESOGIS website for well 33. DSEIS App O Part 44 indicates 2010 CBL showed good bond from 1'180' to bottom of log. Not confidential. Well 58 interpretation confidential.	Redacted copy in package.	
		Exhibit A		30 - 1 PAGE CLAIMED CONFIDENTIAL.	N/A AS COPY NOT INCLUDED IN PACKAGE SUBMITTED TO EPA SINCE Inergy provided updated copy in response to 3rd NOIA.	N/A	
		Exhibit B - Plugging Reports, Production Records	20	31 - ANNUAL WELLS STATUS AND PRODUCTION REPORTS, ANNUAL MINING REPORTS CLAIMED CONFIDENTIAL.	<b>Partially confidential.</b>	Redacted copy in package.	
		Exhibit C - Revised Finite Elements Analysis	60	32 - 60 PAGES CLAIMED CONFIDENTIAL	<b>Partially confidential.</b>	Redacted copy in package.	
		Exhibit D - Revised cross section B-B'	1	33 - 1 PAGE CLAIMED CONFIDENTIAL	<b>Confidential.</b>	N/A	1 PAGE
		Exhibit E		34 - 2 PAGES CLAIMED CONFIDENTIAL	Not included in package submitted to EPA.	N/A	

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Exhibit F - Revised Cross Section A-A'	1	35 - 1 PAGE CLAIMED CONFIDENTIAL.	<b>Confidential.</b>	N/A	1 PAGE
		Exhibit G - Revised Cavern Matrix	1	36 - 1 PAGE CLAIMED CONFIDENTIAL	All information except ultimate capacity is in DSEIS App O Part 10. Ultimate capacity just a calculation from the ultimate tonnage. Not confidential.	Copy in package.	
		Exhibit H - 3 Cement Bond Logs ("CBL") (92 Page equivalent), 3-page evaluation	95	37 - LOGS NOT CLAIMED, EVALUATIONS CLAIMED CONFIDENTIAL.	Logs released by state so not claimed confidential. Evaluations not publicly released - <b>CONFIDENTIAL</b>	N/A	3 PAGES
		Exhibit I - 3 page evaluation of Well 58, Well 58 CBL (16 page equivalent)	19	38 - EVALUATIONS CLAIMED CONFIDENTIAL.	<b>CBL interpretations confidential.</b>	N/A	3 PAGES
3/28/2011	Third Notice of Incomplete Application Letter from Briggs to Bernstein	1 page letter, 3 page attachment	4		One paragraph redacted in submittal. Rest previously released and in DSEIS. Redacted portion released in full in the response to the 3rd NOIA, so all has been released and is on website.	N/A	
4/19/2011	Response to DEC March 28, 2011 Third Notice of Incomplete Application						

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Attachment B - Additional records for Well 18, Gallery 10	23	39 - PRODUCTION / TONS ON WELL 18 DIAGRAM, BRINE FIELD MAP FIGURE 1 SHOWING GALLERIES, 8/8/10 TABULATION OF INJECTION/ PRODUCTION OF WELLS 51, 52, 55, 56, 57, 58 CLAIMED CONFIDENTIAL	Production information confidential.	Redacted copy of Well 18 diagram in package. Tabulation of Injection/Production from wells 52, 55, 56, 57, 58 all confidential.	22 PAGES
		Attachment C - Annotated bond log - Well 52	Multi	40 - ANNOTATED LOG CLAIMED CONFIDENTIAL.	Formation tops confidential-log confidential.	N/A	40 PAGES
		Attachment D - Revised Exhibit A map	1	41 - 1 PAGE CLAIMED CONFIDENTIAL	Confidential	N/A	1 PAGE
		Attachment E - Revised cross sections	2	42 - 1 PAGE CLAIMED CONFIDENTIAL.	1 page confidential	N/A	1 PAGE

DOC. DATE	DOCUMENT TITLE	DOCUMENT SECTION	#OF PAGES	JUNE 12, 2012 LETTER EXHIBIT NUMBER AND CONFIDENTIALITY CLAIM	CONFIDENTIALITY DETERMINATIONS (all withheld documents or portions thereof are withheld pursuant to Exemption 4 of the FOIA)	COPY STATUS	FULLY WITHHELD DOCUMENTS
		Attachment F - Well 58 logs, sonar survey	Multi	43: Sonar claimed confidential. Other logs claimed confidential until released by DEC.	Confidential. 3/11/2011 Gamma Ray Segmented Bond Log - COVER NOT CONFIDENTIAL. LOG CONFIDENTIAL UNTIL STATE RELEASES., 3/24/2011 HR Vertilog - COVER NOT CONFIDENTIAL. LOG CONFIDENTIAL UNTIL STATE RELEASES, 3/25/2011 Sonar Survey (Echo-Log) - CONFIDENTIAL, 4/1/2011 Casing and Cement Bond Evaluation - CONFIDENTIAL, HR Vertilog Inspection Final Report - CONFIDENTIAL.	<b>COPIES OF LOG TITLES IN PACKAGE. REDACTED COPY OF HR VERTILOG INSPECTION SURVEY REPORT IN PACKAGE.</b>	MULTIPLE LOGS AND PAGES HR Vertilog-12 pages, segmented bond log-13 pages withheld, sonar survey 62 pages, casing inspection and cement bond evaluation-1 page.
		Attachment G - Revised cross sections A-A', B-B'	2	44 - 2 PAGES CLAIMED CONFIDENTIAL.	Confidential	N/A	2 PAGES
		Attachment H	1	45 - 1 PAGE CLAIMED CONFIDENTIAL	Well 58 and revised totals confidential. Other wells released in DSEIS App O Part 10-identical numbers. Last column just calculation. Not confidential except well 58 and grand total.	Redacted copy in package.	